

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

MOTOROLA MOBILITY, INC. and
GENERAL INSTRUMENT
CORPORATION,

Plaintiffs

v.

TIVO INC.,

Defendant.

CASE NO. 5:11-cv-00053-JRG

JURY TRIAL DEMANDED

TIVO INC.,

Counterclaim Plaintiff,

vs.

MOTOROLA MOBILITY, INC., GENERAL
INSTRUMENT CORPORATION, TIME
WARNER CABLE INC., and TIME
WARNER CABLE LLC,

Counterclaim Defendants.

**JOINT MOTION FOR ENTRY
OF SECOND AMENDED SCHEDULING ORDER**

Plaintiffs Motorola Mobility, Inc. and General Instrument Corporation (collectively “Motorola”), Counterclaim Defendant Time Warner Cable Inc. and Time Warner Cable LLC (collectively, “TWC”), and Defendant and Counterclaim Plaintiff TiVo Inc. (“TiVo”) hereby jointly move for the Court to enter the proposed Second Amended Scheduling Order attached herein as Exhibit A.

On July 17, 2012, the Court sua sponte issued an Amended Docket Control Order (Dkt. No. 127) with a close of fact discovery and opening expert reports set for December 31, 2012.

The parties have agreed to a schedule with a close of fact discovery of January 28, 2013 and adjusted other dates accordingly. The parties do not request modifying any deadlines after April 15, 2013, including the trial date. A table comparing the joint proposed dates with the current dates as specified in Dkt. No. 127 is included below.

Good cause exists for the proposed amended schedule. The proposed amended schedule allows four additional weeks of fact discovery without changing the Court's set trial date. The parties require these four additional weeks of discovery for at least the following reasons:

- On December 5, the Court issued its Claim Construction Order in this matter (Dkt. 222);
- On November 20, the Court entered the parties' stipulation regarding TiVo's motion to compel Motorola source code and other information with respect to accused products (see Dkt. 199); Motorola represents that it completed its production of source code on December 10;
- After the Court ordered production of TiVo's expert reports in certain prior litigations (see Dkt. 207), TiVo has been processing and producing related expert reports;
- Judge Faulkner was not available to mediate over the holidays within 30 days of the issuance of the claim construction order; and,
- The parties are in the process of scheduling numerous depositions and attempting to reach consensus regarding limits on the depositions.

The requested discovery extension is necessary to address these, and other, issues.

<u>Deadline</u>	<u>Dkt. 127</u>	<u>Joint Proposal</u>
*Jury Selection – 9:00 a.m. in Texarkana, Texas	May 6, 2013	April 29, 2013
*Pretrial Conference – 9:00 a.m. in Marshall, Texas	April 23, 2013	April 23, 2013

<u>Deadline</u>	<u>Dkt. 127</u>	<u>Joint Proposal</u>
<p>*Notify Court of Agreements Reached During Meet and Confer.</p> <p>The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> and advise the Court of any agreements reached no later than 1:00 p.m.</p>	April 17, 2013	April 17, 2013
*File Joint Pretrial Order, Proposed Jury Instructions, Proposed Verdict Form, and Responses to Motions <i>in Limine</i>	April 15, 2013	April 15, 2013
Serve Objections to Trial Exhibits and Deposition Counter-Designations	April 1, 2013	April 11, 2013
<p>*File Notice of Request for Daily Transcript or Real Time Reporting.</p> <p>If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Susan Simmons, at lssimmons@yahoo.com.</p>	April 8, 2013	April 8, 2013
<p>File Motions <i>in Limine</i></p> <p>The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.</p>	April 1, 2013	April 8, 2013
<p>*File Dispositive Motions or Motions to Strike Expert Testimony (including Daubert Motions)</p> <p>No dispositive motion or motion to strike expert testimony (including a Daubert motion) may be filed after this date without leave of the Court.</p>	Feb. 11, 2013	April 8, 2013
Serve Deposition Counter-Designations and Objections to Deposition Designations	March 25, 2013	April 4, 2013
Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List)	Mar. 11, 2013	March 28, 2013
Deadline to Complete Expert Discovery	Feb. 11, 2013	March 25, 2013

<u>Deadline</u>	<u>Dkt. 127</u>	<u>Joint Proposal</u>
*Deadline to File Letter Briefs Regarding Dispositive Motions	Dec. 17, 2012	March 11, 2013
Serve Disclosures for Rebuttal Expert Witnesses	Jan. 21, 2013	March 4, 2013
Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof	Dec. 31, 2012	Feb. 11, 2013
Deadline to Complete Mediation	Dec. 25, 2012	Jan. 31, 2013
Deadline to Complete Fact Discovery and File Motions to Compel Discovery	Dec. 31, 2012	Jan. 28, 2013
Comply with P.R. 3-7 (Opinion of Counsel Defenses)	Dec. 18, 2012	Jan. 14, 2013

Respectfully Submitted,

Dated: December 14, 2012

THE MANN FIRM
 300 West Main Street
 Henderson, Texas 75652
 (903) 657-8540
 (903) 657-6003 (fax)

By: 

J. Mark Mann
 State Bar No. 12926150
G. Blake Thompson
 State Bar No. 24042033
Stacie H. Tandy
 State Bar No. 24042003

Brian K. Erickson
 Texas Bar No. 24012594
Brian.erickson@dlapiper.com
 John Guaragna
 Texas Bar No. 24043308
John.guaragna@dlapiper.com
 Aaron Fountain
 Texas Bar No. 24050619

Aaron.fountain@dlapiper.com
Todd Patterson
Texas Bar No. 24060396
Todd.patterson@dlapiper.com
401 Congress Avenue, Suite 2500
Austin, TX 78701-3799
Phone: 512.457.7000
Fax: 512.457.7001

John Allcock (*pro hac vice*)
John.allcock@dlapiper.com
Sean Cunningham (*pro hac vice*)
Sean.cunningham@dlapiper.com
Erin Gibson (*pro hac vice*)
Erin.gibson@dlapiper.com
401 B Street, Suite 1700
San Diego, CA 92101
Telephone: 619-699-2700
Facsimile: 619-699-2701

Lance Lee
Texas Bar No. 24004762
Attorney-at-Law
5511 Plaza Drive
Texarkana, TX 75503
Telephone: (903) 223-0276
Facsimile: (903) 233-0210
wlancelee@aol.com

**ATTORNEY FOR Plaintiffs MOTOROLA
MOBILITY, INC. and GENERAL
INSTRUMENT CORPORATION and
Counterclaim Defendants TIME WARNER
CABLE, INC. and TIME WARNER CABLE
LLC**

/s/ Thomas C. Werner (with permission)
Sam Baxter, Lead Attorney
Texas State Bar No. 01938000
sbaxter@mckoolsmith.com
Garret W. Chambers
State Bar No. 00792160
gchambers@mckoolsmith.com
McKOOL SMITH

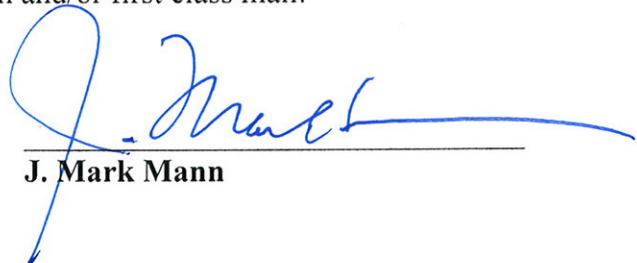
300 Crescent Court, Suite 1500
Dallas, Texas 75201
Telephone: 214-978-4016
Facsimile: 214-978-4044

IRELL & MANELLA LLP
Morgan Chu (*Pro Hac Vice*)
mchu@irell.com
Andrei Iancu (*Pro Hac Vice*)
aiancu@irell.com
Thomas C. Werner (*Pro Hac Vice*)
twerner@irell.com
1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067-4276
Telephone:(310) 277-1010
Facsimile:(310) 203-7199

**ATTORNEYS FOR DEFENDANT AND
COUNTERCLAIM PLAINTIFF, TIVO INC.**

CERTIFICATE OF SERVICE

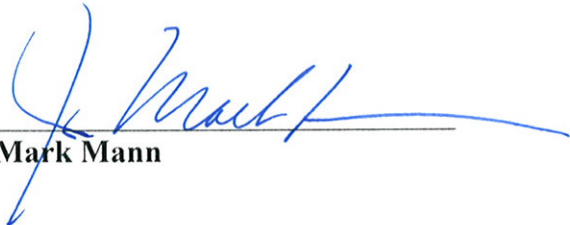
The undersigned certifies that on this 14th day of December 2012, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3). Any other counsel of record will be served by a facsimile transmission and/or first class mail.



J. Mark Mann

CERTIFICATE OF CONFERENCE

Counsel for Motorola and TWC have conferred with counsel for TiVo, and the parties have agreed to the relief sought in this motion.



J. Mark Mann